

## **IC 27-15-3**

### **Chapter 3. Application for Conversion**

#### **IC 27-15-3-1**

##### **Filing with commissioner**

Sec. 1. After the adoption by the board of directors of the resolution proposing the plan of conversion under IC 27-15-2 and the amendment to its articles of incorporation, the converting mutual shall file with the commissioner an application for approval of the plan and amendment.

*As added by P.L.94-1999, SEC.3.*

#### **IC 27-15-3-2**

##### **Content of application**

Sec. 2. The application must contain the following information, together with such additional information as the commissioner may require:

- (1) The plan of conversion and a certificate of the secretary of the converting mutual certifying the adoption of the plan by the board of directors.
- (2) A statement of the reasons for the proposed conversion and why the conversion is in the best interests of the converting mutual, the eligible members, and the other policyholders. The statement must include an analysis of the risks and benefits to the converting mutual and its members of the proposed conversion and a comparison of the risks and benefits of the conversion with the risks and benefits of reasonable alternatives to a conversion.
- (3) A five (5) year business plan and at least two (2) years of financial projections of the former mutual and any parent company.
- (4) Any plans that the former mutual or any parent company may have to:
  - (A) raise additional capital through the issuance of stock or otherwise;
  - (B) sell or issue stock to any person, including any compensation or benefit plan for directors, officers, or employees under which stock may be issued;
  - (C) liquidate or dissolve any company or sell any material assets;
  - (D) merge or consolidate or pursue any other form of reorganization with any person; or
  - (E) make any other material change in investment policy, business, corporate structure, or management.
- (5) Any plans for a delayed distribution of consideration to eligible members or restrictions on sale or transfer of stock or other securities.
- (6) A copy of the form of trust agreement, if a distribution of consideration is to be delayed by more than six (6) months after the effective date of the conversion.

- (7) A plan of operation for a closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.
- (8) Copies of the amendment to the articles of incorporation proposed by the board of directors and the proposed bylaws of the former mutual and copies of the existing and any proposed articles of incorporation and bylaws of any parent company.
- (9) A list of all individuals who are or have been selected to become directors or officers of the former mutual and any parent company, or the individuals who perform or will perform duties customarily performed by a director or officer, and the following information concerning each individual on the list unless the information is already on file with the commissioner:
- (A) The individual's principal occupation.
  - (B) All offices and positions the individual has held in the preceding five (5) years.
  - (C) Any crime of which the individual has been convicted (other than traffic violations) in the preceding ten (10) years.
  - (D) Information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years.
  - (E) Information concerning the bankruptcy of any corporation or other entity of which the individual was an officer or director during the previous seven (7) years.
  - (F) Information concerning allegations of state or federal securities law violations made against the individual that within the previous ten (10) years resulted in:
    - (i) a determination that the individual violated state or federal securities law;
    - (ii) a plea of nolo contendere; or
    - (iii) a consent decree.
  - (G) Information concerning the suspension, revocation, or other disciplinary action during the previous ten (10) years of any state or federal license issued to the individual.
  - (H) Information as to whether the individual was refused a bond during the previous ten (10) years.
- (10) A fairness opinion addressed to the board of directors of the converting mutual from a qualified, independent financial adviser, asserting:
- (A) that the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of incorporation is fair to the eligible members, as a group, from a financial point of view; and
  - (B) whether the total consideration under clause (A) is equal to or greater than the surplus of the converting mutual.
- (11) An actuarial opinion as to the following:
- (A) The reasonableness and appropriateness of the

methodology or formulas used to allocate consideration among eligible members, consistent with this article.

(B) The reasonableness of the plan of operation and the sufficiency of the assets allocated to the closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.

(12) If any of the consideration to be distributed to eligible members consists of stock or other securities, a description of the plans made by the former mutual or its parent company to assure that an active public trading market for the stock or other securities will develop within a reasonable amount of time after the effective date of the plan of conversion and that eligible members who receive stock or other securities will be able to sell their stock or other securities, subject to any delayed distribution or transfer restrictions under this article, at reasonable cost and effort. The plans may consist of the following:

(A) Appointing a registrar and transfer agent for the stock or other securities.

(B) Making filings, applications, or registrations for the stock or other securities with the federal Securities and Exchange Commission and state securities commissioners.

(C) Listing the stock or other securities on a national or other securities exchange.

(D) Facilitating coverage of the stock or other securities by research analysts and securing the commitment of at least one (1) market maker to make a market in the stock or other securities.

(E) Conducting an underwritten public offering of the same class of stock or other securities, promptly following the effectiveness of the plan of conversion, in order to facilitate the development of a public market.

(F) Making available a procedure for eligible members holding small numbers or amounts of stock or other securities to sell their stock or other securities to the former mutual or a parent company at market value without the payment of brokerage commissions or similar fees, or to sell their stock or other securities in the market through a broker with discounted brokerage commissions or fees.

(13) Any additional information, documents, or materials that the converting mutual determines to be necessary.

(14) Any other additional information, documents, or materials that the commissioner requests in writing.

*As added by P.L.94-1999, SEC.3.*

### **IC 27-15-3-3**

#### **Content excepted from simple plan of conversion**

Sec. 3. Notwithstanding section 2 of this chapter, the opinion

described in section 2(10) of this chapter is not required under this chapter if the converting mutual utilizes a simple plan of conversion.  
*As added by P.L.94-1999, SEC.3.*

#### **IC 27-15-3-4**

##### **Actuarial opinion requirements**

Sec. 4. The actuarial opinion required by this chapter shall be:

- (1) provided and signed by a qualified and independent actuary who is a member of the American Academy of Actuaries;
- (2) given in accordance with professional standards and practices generally accepted by the actuarial profession and those other factors as the actuary believes are reasonable and appropriate in the exercise of professional judgment at the time the opinion is given;
- (3) supported by a memorandum of the actuary, describing the calculations made in support of the opinion and the assumptions used in the calculations; and
- (4) submitted to the commissioner.

*As added by P.L.94-1999, SEC.3.*